

UNITED STATES CIVIL SERVICE COMMISSION

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DEPARTMENTAL CIRCULAR NO. 653

TO HEADS OF DEPARTMENTS AND INDEPENDENT ESTABLISHMENTS

SUBJECT: Standards and procedures for grant of reemployment rights-
Revision of program.

In view of the current labor market the Commission has revised its reemployment rights program.

In order to encourage further the movement of employees from nondefense agencies to defense agencies, the revised program provides for the grant of reemployment rights to permanent employees who leave nondefense agencies for employment in defense agencies, unless an appeal by the nondefense agency on the grounds of jeopardy to an essential activity is sustained by the Commission.

On the other hand, in order to assist in the stabilization of employment in defense agencies, an employee will be granted reemployment rights in moving from one defense agency to another defense agency only where this is agreed to by both agencies or on appeal from the requesting agency by the Commission on the basis of a clearly established benefit to the defense program.

The new program is set forth in detail herein.

Effective March 1, 1951, the standards and procedures set forth herein will be followed in the grant of reemployment rights. The material on Federal Personnel Manual pages A7-51 and A7-52 which begins with the heading "Procedure Applying to Release with Reemployment Rights" and ends with the table on page A7-52 is hereby superseded except as otherwise specified herein. The other material on those pages is still applicable. The pages will be revised in the near future. The National Reemployment Rights List of positions attached to Departmental Circular 643, and subsidiary lists, are canceled.

Standards Governing Grant of Reemployment Rights

The following standards shall be applicable in determining whether an employee of one agency shall be granted reemployment rights in taking indefinite employment in another agency:

1. Status of the Employee

Only permanent employees are eligible to be granted reemployment rights. Permanent employees include the following:

- (a) Permanent or probational employees serving under competitive appointments (including such employees who have received an indefinite position change within the agency).
- (b) Permanent employees serving under excepted appointments (including such employees who have received an indefinite position change within an agency).

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(c) Status quo employees (including such employees who have received an indefinite position change within an agency).

(d) Nonstatus employees covered by pending recommendations for conversion to competitive status under Executive Orders 10080 and 10157. (Reemployment rights granted to this group are contingent upon favorable action on the recommendations for status.)

Employees serving under indefinite appointments in a defense agency after the grant of reemployment rights in another agency are considered as eligible for consideration for further appointment with retention of reemployment rights in the original agency.

Reemployment rights may not be granted to any employee who has received a notice of involuntary separation because of reduction in force or for some other reason. Likewise, reemployment rights may not be granted to any employee who has submitted a resignation prior to the receipt by his agency of a notice from another agency that his appointment in that agency with reemployment rights is desired.

2. Activity to Which Going

The agency in which the employee is proposed for employment must be listed as a defense agency. (See List of Defense Agencies in D. C. No. 643 and supplements.)

3. In the Interest of the Defense Program

Reemployment rights are granted when the movement of the employee will be in the interest of the defense program.

Where the employee is going from a nondefense agency to a defense agency it will be presumed that his appointment in the defense agency is in the interest of the defense program.

Where the employee is going from one defense agency to another defense agency, no such presumption is made, and the determination of whether his appointment in the second agency is in the interest of the defense program will be made by the two agencies concerned or by the Commission upon appeal from the requesting agency.

4. Effect on Nondefense Agency

When the conditions for reemployment rights are otherwise met, reemployment rights may be denied by the Commission if it would seriously jeopardize an activity in a nondefense agency essential to the public welfare, such as those directly related to the protection of life, health, and property. Mere inconvenience will not be sufficient to warrant denial of reemployment rights.

Procedure Applying to Appointment with Reemployment Rights

The following procedures will be applicable in the processing of appointments with reemployment rights:

1. From Nondefense Agency

A defense agency desiring to appoint with reemployment rights an employee of a nondefense agency will send an official notice to that effect directly to the nondefense agency. The notice shall contain sufficient data to identify the employee, his organization, and his position. It shall also contain identifying data as to the position for which he is desired and the organizational unit in which he will be employed.

Within three working days of the receipt of such notice, the nondefense agency shall notify the defense agency:

- (a) That the employee is not eligible for appointment with reemployment rights (see Standard 1 above); or
- (b) That it has no objection to the grant of reemployment rights to the employee; or
- (c) That it is appealing to the Commission for a denial of reemployment rights; in such case, the nondefense agency shall simultaneously submit its appeal to the Commission.

The defense agency may proceed to effect the appointment of the employee with reemployment rights if no reply to its notice has been received from the nondefense agency within a reasonable period. A reasonable period shall be the three working days allowed the nondefense agency for determination of its action plus transit time for the communication to and from the nondefense agency. Transit time each way shall be computed on the basis of the method of communication used by the defense agency. Where the defense agency has received within the time specified above a notice from the nondefense agency that it is filing an appeal with the Commission, all action to effect the appointment of the employee in the defense agency with reemployment rights shall be suspended pending a decision on the appeal by the Commission.

2. Between Defense Agencies

When a defense agency wishes to appoint with reemployment rights an employee of another defense agency, it will negotiate directly with the other defense agency. The defense agency desiring the employees services should furnish full information to the other defense agency showing the desirability of the appointment in the interest of the defense program. If both agencies agree that the employee's appointment with reemployment rights would be in the interest of the defense program the employee may be appointed by the receiving agency with reemployment rights under the provisions of Regulation 8.115(a).

Appeals

1. From Nondefense Agencies

A nondefense agency may appeal to the Commission to deny reemployment rights to one of its employees proposed for appointment in a defense agency. This appeal will be submitted to the central or regional office of the Commission having jurisdiction over the position in which the employee is serving.

Such appeal may be made only on the basis that the loss of the employee would jeopardize an activity essential to the public welfare. In submitting such appeal, the agency will submit a copy of the defense agency's notice and will set forth clearly the essential nature of the activity as related to the public welfare and the facts which warrant the conclusion that the loss of the employee would seriously jeopardize that activity.

Such appeal will be considered only if made within three working days of receipt by the nondefense agency of a notice from a defense agency of its desire to appoint the employee with reemployment rights.

As indicated above, the notice to the defense agency, within the time specified, that the nondefense agency is appealing to the Commission will suspend action to appoint the employee with reemployment rights. (This does not prevent the employee's accepting an appointment without reemployment rights.) Such suspension shall continue until the Commission has acted on the appeal.

The Commission will act promptly on the appeal and determine whether the employee may be granted reemployment rights. It will thereupon notify both agencies and if reemployment rights have been granted, the defense agency may proceed immediately to effect the appointment of the employee with reemployment rights.

2. From Defense Agencies

If two defense activities fail to agree to reemployment rights for an employee of one activity in connection with his appointment in the other, the requesting agency may appeal to the central or regional office of the Commission having jurisdiction of the position to which the employee is proposed for appointment.

The Commission will act promptly on the appeal and notify both agencies of its decision. It will grant reemployment rights only in those cases where it is clearly established that the appointment is in the interest of the defense program.

Reports

Standard Form 50, "Notification of Personnel Action", must be submitted to the Commission covering an indefinite appointment with reemployment rights in accordance with instructions in Chapter R1 of the Federal Personnel Manual. The receiving agency will send a copy of this report to the losing agency. The losing agency will then report on Standard Form 40, the separation of the employee with reemployment rights, as directed in Chapter R1 of the Federal Personnel Manual.

Inquiries

Inquiries regarding this circular should be directed to the Examining and Placement Division, U. S. Civil Service Commission, Washington 25, D. C. (telephone code 171, extension 3051), or to the appropriate regional or branch regional office.

By direction of the Commission.

Very respectfully,



L. A. Moyer
Executive Director